BILL NO. S-88-02-04

SPECIAL ORDINANCE NO. S-34-88

AN ORDINANCE approving the payment under a Grant Agreement between Burlington Air Express and the City of Fort Wayne, Indiana.

WHEREAS, The City of Fort Wayne, Indiana, and Burlington Air Express entered into a certain Grant Agreement on the 20th day of September, 1987;

WHEREAS, said Grant Agreement represents the City's agreement to pay and share the costs of operating a Customs Office at the airport;

WHEREAS, the Agreement provides that the City make a grant to Burlington Air Express in the amount of Fifty Thousand Dollars ($50,000.00) to help offset the costs Burlington will incur in constructing or renovating sufficient facilities for the operation of a United States Customs Office;

WHEREAS, in exchange for said grant, Burlington has agreed to remain a party to the cost sharing agreement for operation of a Customs Office for a period of at least one (1) year from and after the date the Customs Office opens, as well as to locate its permanent facility at the airport;

WHEREAS, said agreement provides that the grant shall become a loan if Burlington fails to satisfy either of the conditions set forth above.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Grant Agreement between Burlington Air Express and the City of Fort Wayne, Indiana, attached hereto as a part hereof as Exhibit "A" is hereby approved and ratified.

SECTION 2. The payment of Fifty Thousand Dollars ($50,000.00) to Burlington Air Express is hereby approved, subject to the conditions set forth in the Grant Agreement dated September 20, 1987.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage, and any all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

EXHIBIT "A"

GRANT AGREEMENT

THIS GRANT AGREEMENT entered into this 28th day of September, 1987, between the CITY OF FORT WAYNE, INDIANA ("City") and BURLINGTON AIR EXPRESS ("Burlington").

W I T N E S S E T H:

WHEREAS, the City and Burlington entered into a Letter of Understanding on May 23, 1985, wherein Burlington agreed to locate its cargo transportation hub facility at Baer Field Municipal Airport ("Airport") and the City agreed to take certain actions at the Airport, which actions included extending runway 4-22, installing a Category II landing system and using its best efforts to establish a free trade zone and customs operation; and

WHEREAS, since the date of the Letter of Understanding, an Airport Authority has been created by the Indiana Legislature to operate the Airport and has taken over some of the obligations of City with regard to the Letter of Understanding; and

WHEREAS, the City and the Authority have applied to the U.S. Customs Service for a customs office to be located at the Airport, which application will be approved by the U. S. Customs Service, but only if the City and the Authority agree to pay the costs of establishing and operating said customs office; and

WHEREAS, Burlington, the City, and the Airport Authority have entered into an Agreement sharing the costs of operating a customs office at the Airport; and

WHEREAS, Burlington is willing to construct or renovate space within or adjacent to its present hanger at the Airport in order to accomodate the customs office, as required by the U. S. Customs Service; and

WHEREAS, the City is willing to participate in the cost of constructing or renovating said space in the manner as set out herein.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the parties agree as follows:

SECTION 1. Agreement to construct Customs Facility. Burlington agrees to construct or renovate, at its current hanger facility at the Airport, sufficient facilities for the operation of a United States Customs Office, which facilities will be available to all users of customs services at the Airport, and which construction or renovation will be performed according to plans and specifications to be agreed to between Burlington, U. S. Customs Service, and the Airport Authority.

SECTION 2. City to make Grant. The City will make a grant to Burlington in an amount of Fifty Thousand Dollars ($50,000) to help offset the costs Burlington incurs pursuant to its agreements contained in Section 1 herein. This contribution by the City shall be a grant to Burlington and not a loan, subject only to Burlington meeting the conditions set forth in Section 3 herein.

SECTION 3. Obligations of Burlington to retain Grant. In order for the grant set forth in Section 2 herein to remain a grant, Burlington must comply with the following conditions:

a. Burlington must remain a party to the cost sharing agreement for operation of the customs office between Burlington, the City, and the Authority for a period of at least one (1) year from and after the date the customs office opens, and

b. Burlington must locate its permanent facility at the Airport. Said permanent facility may be either a new facility constructed pursuant to the Letter of Understanding referred to herein or an extension of Burlington's Lease Agreement on its present facility.

SECTION 4. Grant to become Loan. In the event that Burlington fails to satisfy either of the conditions contained in the preceding section, then, at the time of said failure to satisfy said condition, the grant referred to in Section 2 herein shall become a loan, which loan shall be in the amount of Fifty Thousand Dollars ($50,000) and which loan shall be repaid to the City over a ten (10) year period, with equal annual principal payments of Five Thousand Dollars ($5,000), and with interest at a rate of five percent (5%) per annum on the unpaid balance, with the first payment of principal and interest due one (1) year from the date said loan comes into being. No interest shall accrue for such period of time as Burlington is in compliance with the terms of this grant.

SECTION 5. Default in Repayment. In the event Burlington fails to satisfy the conditions of the grant as contained herein and thereby causes said grant to become a loan as described herein, and further, if Burlington fails to make repayment on the loan as provided for in the preceding section, the City, at its election, may declare the entire principal balance due and payable, which amount shall be payable on demand by the City.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first-above written.

CITY OF FORT WAYNE

BY: _____
Win Moses, Jr., Mayor

ATTEST:

_____
Sandra E. Kennedy, Clerk

BURLINGTON AIR EXPRESS

BY: _____
Robin H. H. Wilson,
President and CEO

Read the first time in full and on motion by Schmidt, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATED: 2-9-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Stier, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7	1		1
BRADBURY	✓			
BURNS		✓		
GiaQUINTA	✓			
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT				✓
STIER	✓			
TALARICO	✓			

DATED: 2-23-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ (GENERAL) (SPECIAL) ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-34-88 on the 23rd day of February, 1988,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th day of February, 1988, at the hour of 11:00 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 24th day of February, 1988, at the hour of 1:50 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr._____

DIGEST SHEET

S-88-02-04

TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT

SYNOPSIS OF ORDINANCE SPECIAL ORDINANCE approving the payment of the Grant Agreement between Burlington Air Express and The City of Fort Wayne.

EFFECT OF PASSAGE To establish, renovate or construct sufficient facilities for the operation of a United States Customs Office at the airport.

EFFECT OF NON-PASSAGE Customs Office cannot be established

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) $50,000.00

ASSIGNED TO COMMITTEE (PRESIDENT)_____

Held till 2-23-88

BILL NO. S-88-02-04

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ approving the payment under a Grant Agreement between Burlington Air Express and the City of Fort Wayne, Indiana

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (RESOLUTION)

YES		NO
	DONALD J. SCHMIDT CHAIRMAN	
Charles B. Redd	CHARLES B. REDD VICE CHAIRMAN	
Samuel J. Talarico	SAMUEL J. TALARICO	
	JAMES S. STIER	
Janet G. Bradbury	JANET G. BRADBURY	

CONCURRED IN 2-24-88

Sandra E. Kennedy

Sandra E. Kennedy
City Clerk

GRANT AGREEMENT

THIS GRANT AGREEMENT entered into this 28th day of September, 1987, between the CITY OF FORT WAYNE, INDIANA ("City") and BURLINGTON AIR EXPRESS ("Burlington").

W I T N E S S E T H:

WHEREAS, the City and Burlington entered into a Letter of Understanding on May 23, 1985, wherein Burlington agreed to locate its cargo transportation hub facility at Baer Field Municipal Airport ("Airport") and the City agreed to take certain actions at the Airport, which actions included extending runway 4-22, installing a Category II landing system and using its best efforts to establish a free trade zone and customs operation; and

WHEREAS, since the date of the Letter of Understanding, an Airport Authority has been created by the Indiana Legislature to operate the Airport and has taken over some of the obligations of City with regard to the Letter of Understanding; and

WHEREAS, the City and the Authority have applied to the U.S. Customs Service for a customs office to be located at the Airport, which application will be approved by the U. S. Customs Service, but only if the City and the Authority agree to pay the costs of establishing and operating said customs office; and

WHEREAS, Burlington, the City, and the Airport Authority have entered into an Agreement sharing the costs of operating a customs office at the Airport; and

WHEREAS, Burlington is willing to construct or renovate space within or adjacent to its present hanger at the Airport in order to accomodate the customs office, as required by the U. S. Customs Service; and

WHEREAS, the City is willing to participate in the cost of constructing or renovating said space in the manner as set out herein.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the parties agree as follows:

SECTION 1. Agreement to construct Customs Facility. Burlington agrees to construct or renovate, at its current hanger facility at the Airport, sufficient facilities for the operation of a United States Customs Office, which facilities will be available to all users of customs services at the Airport, and which construction or renovation will be performed according to plans and specifications to be agreed to between Burlington, U. S. Customs Service, and the Airport Authority.

SECTION 2. City to make Grant. The City will make a grant to Burlington in an amount of Fifty Thousand Dollars ($50,000) to help offset the costs Burlington incurs pursuant to its agreements contained in Section 1 herein. This contribution by the City shall be a grant to Burlington and not a loan, subject only to Burlington meeting the conditions set forth in Section 3 herein.

SECTION 3. Obligations of Burlington to retain Grant. In order for the grant set forth in Section 2 herein to remain a grant, Burlington must comply with the following conditions:

a. Burlington must remain a party to the cost sharing agreement for operation of the customs office between Burlington, the City, and the Authority for a period of at least one (1) year from and after the date the customs office opens, and

b. Burlington must locate its permanent facility at the Airport. Said permanent facility may be either a new facility constructed pursuant to the Letter of Understanding referred to herein or an extension of Burlington's Lease Agreement on its present facility.

SECTION 4. Grant to become Loan. In the event that Burlington fails to satisfy either of the conditions contained in the preceding section, then, at the time of said failure to satisfy said condition, the grant referred to in Section 2 herein shall become a loan, which loan shall be in the amount of Fifty Thousand Dollars ($50,000) and which loan shall be repaid to the City over a ten (10) year period, with equal annual principal payments of Five Thousand Dollars ($5,000), and with interest at a rate of five percent (5%) per annum on the unpaid balance, with the first payment of principal and interest due one (1) year from the date said loan comes into being. No interest shall accrue for such period of time as Burlington is in compliance with the terms of this grant.

SECTION 5. Default in Repayment. In the event Burlington fails to satisfy the conditions of the grant as contained herein and thereby causes said grant to become a loan as described herein, and further, if Burlington fails to make repayment on the loan as provided for in the preceding section, the City, at its election, may declare the entire principal balance due and payable, which amount shall be payable on demand by the City.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first-above written.

CITY OF FORT WAYNE

BY: _____
Win Moses, Jr., Mayor

ATTEST:

_____
Sandra E. Kennedy, Clerk

BURLINGTON AIR EXPRESS

BY: _____
Robin H. H. Wilson,
President and CEO

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WHEREAS, since the date of the Letter of Understanding, an Airport Authority has been created by the Indiana Legislature to operate the Airport and has taken over some of the obligations of City with regard to the Letter of Understanding; and

WHEREAS, the City and the Authority have applied to the U.S. Customs Service for a customs office to be located at the Airport, which application will be approved by the U. S. Customs Service, but only if the City and the Authority agree to pay the costs of establishing and operating said customs office; and

WHEREAS, Burlington, the City, and the Airport Authority have entered into an Agreement sharing the costs of operating a customs office at the Airport; and

WHEREAS, Burlington is willing to construct or renovate space within or adjacent to its present hanger at the Airport in order to accomodate the customs office, as required by the U. S. Customs Service; and

WHEREAS, the City is willing to participate in the cost of constructing or renovating said space in the manner as set out herein.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the parties agree as follows:

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SECTION 5. Default in Repayment. In the event Burlington fails to satisfy the conditions of the grant as contained herein and thereby causes said grant to become a loan as described herein, and further, if Burlington fails to make repayment on the loan as provided for in the preceding section, the City, at its election, may declare the entire principal balance due and payable, which amount shall be payable on demand by the City.

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CITY OF FORT WAYNE

BY: _____
Win Moses, Jr., Mayor

ATTEST:

_____
Sandra E. Kennedy, Clerk

BURLINGTON AIR EXPRESS

BY: _____
Robin H. H. Wilson,
President and CEO